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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,671	01/06/2005	Douglas E Frisoli	DEF-101	9377

7590 09/11/2006  
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EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/520,671

Applicant(s)

FRISOLI, DOUGLAS E

Examiner

Benjamin H. Layno

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Addabbo.

The patent to Addabbo discloses a method of playing a card game using the rules of the well known game Rock, Paper, Scissors game. Addabbo's game comprises a custom set of cards that include Rock cards, Scissor cards and Paper cards, see Fig.

1. To play Addabbo's game each player and the dealer (also a player) are dealt five cards (which is at least one card or which is at least three cards) face down, col. 9, lines 50-51. Each player and the dealer show their hands. The players' hands and the dealer's hand are compared using the rules of Rock, Paper, Scissors game, wherein a Scissors Card wins against a Paper Card, a Paper Card wins against a against a Rock Card, and a Rock Card wins against a Scissors Card, see rules "Eighteen)", "Nineteen)", and "Twenty)" in col. 10, lines 15-25. Also see the Sample Hands in Fig. 34 – Fig. 38, described in col. 10, line 45 to col. 11, line 10.

It is also disclosed that Addabbo's card game is similar to **Poker** and **uses Poker Rules**, col. 2, line 66 to col. 3, line 3. **The Examiner takes Official Notice that it is well known that the game of Poker may be played as a gambling game wherein**

**antes and bets are placed.** In view of such teaching, it would have been obvious to play Addabbo's card game as a gambling game wherein antes and bets are placed by the players. This modification would have made Addabbo's card game more exciting and more challenging.

3. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Addabbo as applied to claim 1 above, and further in view of Baerlocker.

The patent to Baerlocker discloses a electronic version of the Rock, Paper, Scissors game, wherein the Rock, Paper or Scissor is not random, but chosen by the player, see Figs. 11A – 11D, also see col.12, line 28 to col. 13, line 18.

In view of such teaching, it would have been obvious to provide an electronic embodiment of Addabbo's card game wherein the Rock card, Paper card or Scissor card is not random, but chosen by the player. Then the players and dealer reveal their chosen card.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Addabbo as applied to claim 1 above, and further in view of Pitkanen.

The patent to Pitkanen disclose a game that uses the Rock, Paper, Scissors game rule. Pitkanen's game uses a die, Fig. 4 with Rock, Paper, Scissors symbols on its faces to randomly select either a Rock, Paper or Scissors symbol.

In view of such teaching, it would have been obvious to modify Addabbo's game by using dice instead of cards. The die would have been used to randomly determine

what symbol (Rock, Paper or Scissors) each player and the dealer would have been dealt. This modification would have made Addabbo's game more efficient and less time consuming (no time consuming shuffling process would have been necessary).

***Abstract***

5. The abstract of the disclosure is objected to because the abstract used is the front page of a PCT application having other text and illustrations. This is not proper. The abstract must be printed on a separate sheet without other extraneous text or illustrations. Correction is required. See MPEP § 608.01(b).

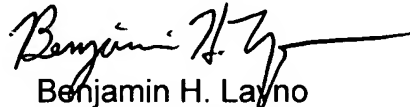
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The design patent to Edwards, Jr. discloses a deck of Rock cards, Paper cards and Scissors cards.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl